

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Hassan

Mailed: October 24, 2002

Opposition No. 91125328

Opposition No. 91152016

OS ASSET, INC. OUTBACK
STEAKHOUSE OF FLORIDA, INC.

v.

JOHN HEROD, LLC

Angela Lykos, Interlocutory Attorney

CONSOLIDATION ORDERED

On August 29, 2002, the parties filed a stipulated motion to consolidate the above referenced proceedings. The Board hereby orders the consolidation of the above-referenced proceedings inasmuch as the parties are the same and the two proceedings involve common questions of law or fact.¹ In view thereof, Opposition Nos. 91125328 and 91152016 are hereby consolidated.

¹ When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *see also, Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board filed will be maintained in Opposition No. 91125328 as the “parent” case. As a general rule, from this point on only a single copy of any paper or motion should be filed herein; but that copy should bear two proceeding numbers in its caption. Exceptions to the general rule involve stipulated extensions of the discovery and trial dates, see Trademark Rule 2.121(d), and briefs on the case, see Trademark Rule 2.128.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleading; a copy of the decision shall be placed in each proceeding.

Trial dates, including the close of discovery, remain as set in the Board’s order issued on July 8, 2002 in Opposition No. 91152016 :

THE PERIOD FOR DISCOVERY TO CLOSE:	January 24, 2003
30-day testimony period for party in position of plaintiff to close:	April 24, 2003
30-day testimony period for party in position of defendant to close:	June 23, 2003
15-day rebuttal testimony period for plaintiff to close:	August 7, 2003

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.